

JOSEPH A. FERRARI

JUNE 26, 1951.—Committed to the Committee of the Whole House and ordered to be printed

Mr. FRAZIER, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 3026]

The Committee on the Judiciary, to whom was referred the bill (H. R. 3026) for the relief of Joseph A. Ferrari, having considered the same, report favorably thereon with amendment and recommend that the bill do pass.

The amendment is as follows:

Page 1, line 6, strike out "368.50", and insert "333.75".

The purpose of the proposed legislation is to pay the sum of \$333.75 to Joseph A. Ferrari, Dorchester, Mass., in full settlement of all claims of Mr. Ferrari for reimbursement for personal property which he lost when the ship upon which he and other members of the Armed Forces were being transported during World War II was sunk, on December 5, 1944, as the result of enemy action.

STATEMENT OF FACTS

It appears that on December 5, 1944, Sgt. Joseph A. Ferrari, a member of the Two thousand, seven hundred and seventy-third Engineer Base Reproduction Company, United States Army, was aboard a ship en route from Hollandia, New Guinea, to Leyte, Philippine Islands. The ship was sunk by enemy action, and acting pursuant to orders, Sergeant Ferrari abandoned ship with only the clothes he was wearing, leaving all the rest of his personal property. Sergeant Ferrari and others were picked up by a destroyer escort and taken to their destination at Tacloban, Leyte, Philippine Islands. There the men were told that they could make claims for their loss of personal property, but that such claims could be made only on certain official forms which were not available there. Sergeant Ferrari was discharged from the Army on November 6, 1945, approximately

11 months after the incident in which his personal property was lost. Not until June 6, 1950, did he make any inquiry about payment for his loss of personal property. On that date he wrote the Judge Advocate General of the Army inquiring if he was eligible to be reimbursed for this loss. His inquiry was referred to a claims officer who assisted Mr. Ferrari in filing a claim, dated August 7, 1950, in which he itemized the property lost, and claimed \$333.75 for the items there enumerated. Mr. Ferrari made an affidavit, sworn to on August 8, 1950, in support of his claim for the loss of his personal property. In this affidavit Mr. Ferrari stated:

\*            \*            \*            \*            \*            \*            \*

Following the sinking, we proceeded to Tacloban in a destroyer escort vessel. After our arrival, the subject of making claim for losses of property came up. About 15 men were interested in making. These 15, including myself, comprised the advance echelon of the unit, who were on board the sinking ship.

Through informal means, we were informed that claim for loss could be made but only on official forms which were not then available.

Thereafter I forgot about the claim and made no further. I was discharged 11 months later.

Following my discharge I made no inquiry. In March 1950, in conversing with fellow employees at the Boston Navy Yard, I learned that similar claim had been filed with the Government.

On June 1950 I wrote the Claims and Litigation Division of the Judge Advocate General's Office, making claim and requesting necessary forms.

The Department of the Army, in its report dated April 27, 1951, states:

There are many hundreds of individuals, whose personal property has been lost or damaged as an incident of their military service, and who have had their claims for such loss or damage denied because they too were unable to furnish "good cause" for the delay in filing their claims. The enactment of this bill, therefore, would constitute discriminatory legislation in that it would grant relief to Mr. Ferrari which is denied to all other persons similarly situated. If the Congress should determine, as a matter of policy, that claims, which have been denied payment because they were not submitted within the period prescribed by law for the submission of such claims, should now be paid, it is submitted that it would be desirable to authorize such payment by general statute, applicable to all persons.

The Department of Defense was called upon to render a report on H. R. 404, to provide for the settlement of claims of military personnel and civilian employees of the War Department or of the Army for damage to or loss, destruction, capture, or abandonment of personal property occurring incident to their service. This request was submitted by the Department of Defense to the Department of the Navy to report on this legislation. The Navy Department submitted its adverse report in response to this request on May 22, 1951.

The committee is of the opinion that the Department of Defense is inconsistent when it states that it opposes this bill to pay an individual and states that it would be desirable to authorize such payment by general statute applicable to all persons. This situation has existed for several years, and the Department opposes legislation to individuals and then opposes general legislation. The committee believes that if this situation continues, it is the duty of the Congress to enact individual bills for the relief of these former servicemen.

Therefore, it is recommended that this bill be favorably considered.

DEPARTMENT OF THE ARMY,  
Washington D. C., April 27, 1951.

Hon. EMANUEL CELLER,  
*Chairman, Committee on the Judiciary,*  
*House of Representatives.*

DEAR MR. CELLER: Reference is made to your letter enclosing a copy of H. R. 3026, Eighty-Second Congress, a bill for the relief of Joseph A. Ferrari, and requesting a report on the merits of the bill.

This bill would authorize and direct the Secretary of the Treasury "to pay, out of any money in the Treasury not otherwise appropriated, to Joseph A. Ferrari, Dorchester, Mass., the sum of \$368.50 \* \* \* in full settlement of all claims of the said Joseph A. Ferrari for reimbursement for personal property which he lost \* \* \*" while in the military service.

On December 5, 1944, Sgt. Joseph A. Ferrari, a member of the 2773d Engineer Base Reproduction Company, United States Army, was aboard a ship en route from Hollandia, New Guinea, to Leyte, Philippine Islands. The ship was sunk by enemy action, and acting pursuant to orders, Sergeant Ferrari abandoned ship with only the clothes he was wearing, leaving all the rest of his personal property. Sergeant Ferrari and others were picked up by a destroyer escort and taken to their destination at Tacloban, Leyte, Philippine Islands. There the men were told that they could make claims for their loss of personal property, but that such claims could be made only on certain official forms which were not available there. Sergeant Ferrari was discharged from the Army on November 6, 1945, approximately 11 months after the incident in which his personal property was lost. Not until June 6, 1950, did he make any inquiry about payment for his loss of personal property. On that date he wrote the Judge Advocate General of the Army inquiring if he was eligible to be reimbursed for this loss. His inquiry was referred to a claims officer who assisted Mr. Ferrari in filing a claim, dated August 7, 1950, in which he itemized the property lost, and claimed \$333.75 for the items there enumerated. Mr. Ferrari made an affidavit, sworn to on August 8, 1950, in support of his claim for the loss of his personal property. In this affidavit Mr. Ferrari stated:

\* \* \* \* \*

"Following the sinking, we proceeded to Tacloban in a destroyer escort vessel. After our arrival, the subject of making claim for losses of property came up. About 15 men were interested in making. These 15, including myself, comprised the advance echelon of the unit, who were on board the sinking ship.

"Through informal means, we were informed that claim for loss could be made but only on official forms which were not then available.

"Thereafter I forgot about the claim and made no further. I was discharged 11 months later.

"Following my discharge I made no inquiry. In March 1950, in conversing with fellow employees at the Boston Navy Yard, I learned that similar claim had been filed with the Government.

"On June 1950, I wrote the Claims and Litigation Division of the Judge Advocate General's Office, making claim and requesting necessary forms."

This claim was considered under the Military Personnel Claims Act of 1945, approved May 29, 1945 (59 Stat. 225; 31 U. S. C. 222c), the only statute under which a claim of this nature may be considered. This act provides, in pertinent part, as follows:

"No claim shall be settled under this Act until presented in writing within one year after the accident or incident out of which such claim arises shall have occurred: *Provided*, That if such accident or incident occurs in time of war, or if war intervenes within two years after its occurrence, any claim may, on good cause shown, be presented within one year after peace is established."

On August 31, 1950, this claim was necessarily disapproved, for the reason that although the property in question was lost on December 5, 1944, Mr. Ferrari did not file a claim until August 8, 1950, which was not within the time provided in the above-cited act, and Mr. Ferrari did not furnish any "good cause" for his delay in the filing of his claim.

There are many hundreds of individuals, whose personal property has been lost or damaged as an incident of their military service, and who have had their claims for such loss or damage denied because they too were unable to furnish "good cause" for the delay in filing their claims. The enactment of this bill, therefore, would constitute discriminatory legislation in that it would grant relief to Mr. Ferrari which is denied to all other persons similarly situated. If the Congress

should determine, as a matter of policy, that claims, which have been denied payment because they were not submitted within the period prescribed by law for the submission of such claims, should now be paid, it is submitted that it would be desirable to authorize such payment by general statute, applicable to all persons.

In the light of the foregoing facts the Department of the Army can perceive no reason why this claimant should be singled out for special consideration not granted by general law to other claimants in like circumstances. The Department of the Army, accordingly, is obliged to recommend that this bill be not favorably considered by the Congress.

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely yours,

FRANK PACE, Jr.,  
Secretary of the Army.

#### AFFIDAVIT OF JOSEPH A. FERRARI

COMMONWEALTH OF MASSACHUSETTS,

County of Suffolk, Headquarters New England Subarea, ss:

Personally appeared before me, one Joseph A. Ferrari, of 28 Mount Everett Street, Dorchester, county of Suffolk, Mass., who, after being duly sworn according to law, and says:

I was drafted into the Army and went on active duty on November 20, 1942. I was honorably discharged on November 6, 1945.

In the latter part of November 1944 my unit, the Two thousand seven hundred and seventy-third Engineer Base Reproduction Company, APO 500, San Francisco, Calif., embarked on the steamship *Antoine Saugrain* from Hollandia, New Guinea. Our destination was Tacloban, Leyte, Philippines. On the 5th day of December 1944, the steamship *Antoine Saugrain* was hit by Japanese bombers at longitude 129°30', latitude 9°30'. The ship was struck by torpedos and we were ordered to abandon ship. Outside of the clothes on my person, all my personal belongings were left behind. There was no opportunity to save them.

All the items listed on Form 30B were my own property and were lost with the ship.

The Rolleiflex camera was given to me as a gift by my family in July 1940. They informed me that they paid \$152.30 for the camera. It was always in my possession until the date of the sinking.

The colored camera filters were purchased by my family in July 1943 as a gift to me. They were sent to me in Australia. They cost \$13.50 at the time of purchase.

The camera sunshade was purchased by my family and sent to me in Australia in 1943 as a gift. The sunshade and filter clip cost \$4.50 when acquired.

The Waterman pen and pencil set, purchased by my parents, was given to me as a gift in December 1941.

The wrist watch, 17-jewel, was given to me as a gift by my fellow workers at the Boston Navy Yard just prior to my leaving for the service. It cost \$65 when acquired.

All the above items were in very good condition.

I purchased the cigarette case and lighter in July 1942. I paid \$15 for this item. The purchase was made in Filene's or Jordan's in Boston, Mass. At the time of loss, it was slightly battered through use.

The sealskin wallet was purchased for me at a cost of \$7.50 in December 1943.

The toilet articles with leather case cost \$15 and were presented to me as a gift in December 1942.

One pair of mocassins, one dozen white handkerchiefs, and one dozen pairs of white socks were sent to me from home. I received them in Hollandia in July 1944. My family subsequently informed me that the mocassins cost \$5, the handkerchiefs \$4.20, and the socks \$7.80.

The traveling leather bag (18-inches) was sent to me at Brisbane, Australia in December 1943 by my family. They informed me that it cost \$18.50.

The three American \$5 bills were in my wallet at the time of the sinking. The wallet was located in my traveling bag. I was forced to leave the ship clad only in shorts and mocassins and carried with me no other personal belongings. This \$15 had been the repayment of a loan to me by Sgt. Gene Beilfus of my outfit. This money was given to me prior to embarking.

In my wallet at the time was between 50 and 60 Dutch guilders. This is my best recollection. At the time of the sinking the exchange was approximately 1 guilder to 53 American cents. This money was the remains of Army pay.

Following the sinking, we proceeded to Tacloban in a destroyer escort vessel.

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On June 1950 I wrote the Claims and Litigation Division of the Judge Advocate General's Office, making claim and requesting necessary forms.

Further the deponent sayeth not.

JOSEPH A. FERRARI

Subscribed and sworn to before me this 8th day of August 1950.

LEO SONTAG,

First Lieutenant, JAGC-USAR.

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